

**REMARKS**

In accordance with the Amendment filed August 30, 2007, claims 1 and 3-32 are pending and reconsideration is respectfully requested.

**DOUBLE PATENTING:**

Claims 1-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 7,009,926 in view of the acknowledged prior art. In light of the Office Action mailed November 28, 2007 and without admission as to the patentable indistinctiveness of the claims, it is respectfully requested that the Examiner withdraw the rejection in light of the enclosed Terminal Disclaimer.

**REJECTIONS UNDER 35 U.S.C. §103:**

Claims 1, 2, 4, 5, and 7 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tsuitsui (U.S. Patent 6,128,264) further considered with the acknowledged prior art. The rejection is traversed and reconsideration is respectfully requested in light of the arguments presented in the Amendment filed August 30, 2007, which are again presented below for the convenience of the Examiner.

As a point of clarification, claim 2 has been cancelled without prejudice or disclaimer. As such, it is respectfully submitted that the rejection is moot.

Regarding the rejection of claim 1, it is noted that claim 1 recites a recordable information storage medium with respect to which a recording and/or reproducing apparatus, including a drive following a version of standards that is older than that of the information storage medium, records data. Compatibility information, about whether the information storage medium is compatible with the drive, is recorded in at least one of the lead-in and lead-out areas of the medium and is used by the recording and/or reproducing apparatus in the recording of the data to the medium.

These claimed features are not shown in the reference to Tsuitsui or the acknowledged prior art. In particular, with respect to the Examiner's assertion that Tsuitsui discloses systems cooperating with new and old standards, applicants note that the claimed use of compatibility information in the recording of data to the medium is not disclosed. Rather, Tsuitsui is directed to the use of management data stored on a medium to allow audio/video data, which is already stored on the medium, to be reproduced. *See e.g., column 18, line 50 stating that each audio signal "has been recorded on the disc."* Indeed, the cited section of Tsuitsui is wholly related to the use of the management data in reproducing the stored audio/video data and contains no

disclosure of recording the audio data. This stands in contrast to the claimed invention which, as noted above, recites the use of compatibility information in the recording of data using the compatibility information.

Meanwhile, with respect to the "acknowledged prior art," as mentioned by the Examiner, applicants submit that the prior art does not show any of the features discussed above. Further, applicants submit that the prior art is not being cited for the purpose of showing any disclosure of the features discussed above.

Thus, since the prior art does not cure the defects of Tsuitsui, applicants respectfully assert that claim 1 is patentably distinguished from the reference to Tsuitsui and that, therefore, the rejection of claim 1 is overcome.

Regarding the rejections of claims 4, 5 and 7, it is noted that these claims depend from claim 1 and that, therefore, the rejections of these claims are overcome for at least the reasons set forth above.

Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of DVD physical specifications version 1.9, July 1998, as noted in Sasa et al (U.S. Patent 6,628,595). The rejection is traversed and reconsideration is respectfully requested in light of the arguments presented in the Amendment filed August 30, 2007, which are again presented below for the convenience of the Examiner.

Since claim 3 depends from claim 1 and since the additional reference to Sasa does not cure the defects of Tsuitui or the prior art, it is believed that the rejection of claim 3 is overcome for at least the reasons set forth above.

Claims 12-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Okanishi (U.S. Patent 6,195,325) and further with Kobayashi (U.S. Patent 6,549,494). The rejection is traversed and reconsideration is respectfully requested in light of the arguments presented in the Amendment filed August 30, 2007, which are again presented below for the convenience of the Examiner.

Since claims 12-16 depend from claim 1 and since the additional references to Okanishi and Kobayashi do not cure the defects of Tsuitui or the prior art, it is believed that the rejections of claims 12-16 are overcome for at least the reasons set forth above.

Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claim 12 above, and further in view of Sasa. The rejection is traversed and reconsideration is respectfully requested in light of the arguments presented in the Amendment

filed August 30, 2007, which are again presented below for the convenience of the Examiner.

Since claim 17 depends from claim 1 and since the additional reference Sasa does not cure the defects of Tsuitsui or the prior art, it is believed that the rejection of claim 17 is overcome for at least the reasons set forth above.

Claims 18-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tsuitsui considered with the acknowledged prior art and with Sasa. The rejection is traversed and reconsideration is respectfully requested in light of the arguments presented in the Amendment filed August 30, 2007, which are again presented below for the convenience of the Examiner.

Regarding the rejection of claim 18, it is respectfully submitted that Tsuitsui does not disclose or suggest the features of claim 18 for at least reasons similar to why Tsuitsui does not disclose or suggest the features of claim 1. Since Sasa would not cure the defects of Tsuitsui or the prior art as noted above as applied to claim 1, it is similarly believed that the rejection of claim 18 is overcome for similar reasons as set forth above.

Regarding the rejections of claims 19-22, it is noted that claims 19-22 depend from claim 18 and that, therefore, the rejections of claims 19-22 are overcome for at least the reasons set forth above.

Claims 24 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tsuitsui considered with the acknowledged prior art and both further considered with Sasa and all further considered with Yamagami et al (U.S. Patent 6,256,282). The rejection is traversed and reconsideration is respectfully requested in light of the arguments presented in the Amendment filed August 30, 2007, which are again presented below for the convenience of the Examiner.

Regarding the rejection of claim 24, it is respectfully submitted that Tsuitsui does not disclose or suggest the features of claim 24 for at least reasons similar to why Tsuitsui does not disclose or suggest the features of claim 1. Since the additional references to Sasa and Yamaguchi would not cure the defects of Tsuitsui or the prior art as noted above, it is similarly believed that the rejection of claim 24 is overcome for at least similar reasons as set forth above.

Regarding the rejection of claim 25, it is noted that claim 25 depends from claim 24 and that, therefore, the rejection of claim 25 is overcome for at least the reasons set forth above.

Claims 26 and 27 are rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claim 25 as stated above and further in view of Okanishi and further with Kobayashi. The rejection is traversed and reconsideration is respectfully requested in light of the

arguments presented in the Amendment filed August 30, 2007, which are again presented below for the convenience of the Examiner.

Since claims 26 and 27 depend from claim 24 and since the additional references to Okanishi and Kobayashi do not cure the defects of Tsuitsui or the prior art, it is believed that the rejections of claims 26 and 27 are overcome for at least the reasons set forth above.

Claims 28-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claim 24 as stated above and further considered with Kobayashi. The rejection is traversed and reconsideration is respectfully requested in light of the arguments presented in the Amendment filed August 30, 2007, which are again presented below for the convenience of the Examiner.

Since claims 28-30 depend from claim 24 and since the additional reference to Kobayashi does not cure the defects of Tsuitsui or the prior art, it is believed that the rejections of claims 28-30 are overcome for at least the reasons set forth above.

Claims 6, 8, 21, 23, 27 and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claims 1, 18 and 24 respectively above, and further in view of acknowledged prior art. The rejection is traversed and reconsideration is respectfully requested in light of the arguments presented in the Amendment filed August 30, 2007, which are again presented below for the convenience of the Examiner.

The rejections of these claims are believed to be overcome for at least the reasons set forth with respect to the allowability of claims 1, 18 and 24.

**ALLOWABLE SUBJECT MATTER:**

Claims 9, 10, and 11 are objected to. However, claims 9 and 11 have been rewritten in independent form and are believed to be in condition for allowance.

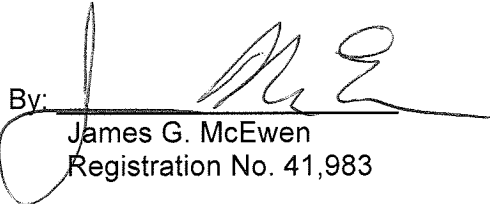
**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited. If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters. Finally, if there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: Dec. 28, 2007

By:   
James G. McEwen  
Registration No. 41,983

1400 Eye Street, NW  
Suite 300  
Washington, DC 20005  
Telephone: (202) 216-9505  
Facsimile: (202) 216-9510